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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,002	02/12/2002	Klaus Wildenhain	3633-511	2442

20582 7590 12/03/2002

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/072,002

Applicant(s)

K. WILDENHAIN ET AL.

Examiner

YVONNE M. HORTON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 12, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 12, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1& 1/2 6) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 11-13, 16-25, 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0595062. In reference to claims 1, 17 and 20, EP 0595062 discloses a fixing and fire-resistant glazing assembly including a fixing member (16, 18) having a support (18) and a safety element (16), a <sup>add. panel</sup> glazed element (2) and an <sup>main</sup> additional pane (1); wherein the additional pane (1) configured to permit positioning of the glazed element (2). In regards to claims 2-4, 18, 19 and 21, the additional pane (1) further includes a bore (5) for receipt of a fastener (17) that extends therethrough and allows for positive fixed engagement. In reference to claim 6, the safety element includes a ring (10). Regarding claims 7 and 22, the safety element (10, 16) intersects the plane of the glazed member (2) and the glazed member (2) is bonded (3) to the additional sheet (1). In reference to claims 12, 13 and 28, the glazed element (2) is laminated and the glazed element (2) and additional sheet (1) are assembled by a spacing frame (16, 18). Regarding claim 16, there is a gap (G) between panels that is filled with seal (19). In reference to claim 23, the safety element (16) includes a first portion (FP) sealed to the sheet (2) and a second

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portion (SP) remote therefrom, see the marked attachment. In reference to claims 24 and 25, the bore (5) includes a smaller outer diameter (6) and a larger inner diameter (7). Regarding claim 30, the sheet (1,2) is separated from the support (16,18) by a seal (10).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 8-10,14-15,26,27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0595062. As detailed above, EP 0595062 discloses the basic claimed fixing and fire-resistant glazing assembly except for the material of the additional pane, the use of a two sheet additional pane, and the use of a heat-reflective coating. In regards to claims 8,14

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and 29, although EP 0595062 is not explicit as to the use of a prestressed glass sheet, it would have been an obvious matter of design choice to select a known material on the basis of its suitability for the use intended. Thus, it would have been obvious to one having ordinary skill in the art to form the additional panel from a prestressed material if the environment in which it is to be used warrants or performs more efficiently with a prestressed glass. In reference to claims 9,11,26 and 27, again EP 0595062 does not teach forming the additional pane from two sheets bonded together. Although EP 0595062 does not disclose this, it is old and very well known in the art to form a pane from multiple layers. Hence. It would have been well within the general skill of a worker in the art to form the additional pane from two bonded sheets. Regarding claim 10, heat reflective coatings are old and very well known in the art. Thus it too would have been obvious to form the assembly of EP 0595062 with a heat-reflective coating.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



December 2, 2002

